

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

ET 8 LP TRANSCENDENT ELECTRA
MANAGEMENT, LLC,

Plaintiff,

v.

WILLIAM HAYWOOD GORDON, et al.,

Defendants.

CIVIL ACTION NO. 5:23-cv-196 (MTT)

ORDER

Defendant William Gordon removed this action on June 5, 2023. Doc. 1.

Because the Court lacks subject matter jurisdiction, this case is **REMANDED** to the Magistrate Court of Houston County, Georgia.

District courts “may remand a case *sua sponte* for lack of subject matter jurisdiction at any time.” *Corp. Mgmt. Advisors, Inc. v. Artjen Complexus, Inc.*, 561 F.3d 1294, 1296 (11th Cir. 2009) (citing 28 U.S.C. § 1447(c)). On June 13, 2023, the Court ordered Gordon to show cause why this case should not be remanded for lack of jurisdiction. Doc. 2. Gordon responded, and asserts the Court has subject matter jurisdiction because the case “present[s] federal questions under the” Fair Debt Collection Practices Act (“FDCPA”) and the United States Constitution. Doc. 3 at 3-4.

Gordon has failed to demonstrate that the Court has federal question jurisdiction. Plaintiff ET 8 LP Transcendent Electra Management, LLC filed a petition for writ of possession against Gordon—a state law issue. Doc. 1-2 at 1. Thus, if anything, and as Gordon indicates, the FDCPA and the Constitution may be the source of his

“counterclaims”—but 28 U.S.C. Section 1441 “does not permit removal based on counterclaims at all.” *Home Depot U.S.A., Inc. v. Jackson*, ___ U.S. ___, 139 S.Ct. 1743, 1748 (2019).

Gordon does not assert that the Court has subject matter jurisdiction based on diversity. Nor could he. Under 28 U.S.C. Section 1441(b)(2), “[a] civil action otherwise removable solely on the basis of jurisdiction . . . may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” Gordon is a Georgia resident and ET 8 LP brought an action in a Georgia state court against him. Docs. 1; 1-1. Therefore, removal based on diversity is also improper.

Because the Court lacks subject matter jurisdiction, this action is **REMANDED** to the Magistrate Court of Houston County, Georgia.

SO ORDERED, this 20th day of July, 2023.

S/ Marc T. Treadwell
MARC T. TREADWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT